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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

June 1, 1999

VIA MESSENGER

Magalie Roman Salas, Secretary
Federal Communications Commission
Portals II, 445 12th Street, S.W.
Washington, D.C. 20554

Re: CC Docket No. 94-102
Response to TruePosition, Inc. Late-Filed Ex Parte Comments

Dear Ms. Salas:

SnapTrack, Inc. ("SnapTrack"), by its attorneys, submits this response to the April 29, 1999 late-filed *ex parte* comments of TruePosition, Inc. ("TruePosition") in the captioned proceeding.¹ Unfortunately, TruePosition repeats the inaccurate claims from its February 16, 1999 comments in this docket, ignoring the facts which have been included in the record by wireless carriers and other parties. Although SnapTrack would prefer not to waste the Commission's limited time and resources on what, as documented below, are incorrect, unsubstantiated contentions, we are constrained to respond so that no inference of SnapTrack's concurrence arises from silence.

INTRODUCTION

While TruePosition's *ex parte* is principally directed at SnapTrack, it should go without saying that SnapTrack is not the only entity developing GPS-based solutions to E911 location and concerned about the biased nature of the Commission's current rules. Major wireless

¹ Letter from Antoinette Cook Bush et al, counsel for TruePosition, to Magalie Roman Salas, Secretary, FCC (April 19, 1999) ("TruePosition Ex Parte"). TruePosition's *ex parte* comments, which are not authorized under the pleading schedule set forth in the Bureau's December 24, 1998 Public Notice (DA 98-2631) ("Public Notice"), repeatedly refer to SnapTrack's February 25, 1999 comments as "late-filed." Yet TruePosition fails to note that SnapTrack filed these comments just three days late, after serving all parties, explaining that "[d]elays in obtaining copies of the waivers and comments of record . . . from the Commission's contract copier, coupled with a family illness for SnapTrack's lead counsel," necessitated the slight extension. Motion of SnapTrack for Leave to File Comments Out-of-Time (Feb. 25, 1999). In contrast, TruePosition's April 29, 1999 *ex parte* was filed more than two months after the close of the pleading cycle.

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vendors such as Ericsson, Lucent, Nokia, Motorola, and Qualcomm have publicly announced, in both press releases and filings with various standards bodies, development of handset-based location systems. And as the comments already in the record reveal, handset-based Automatic Location Information (“ALI”) approaches offer a degree of accuracy, cost efficiency and reliability that will markedly improve the ability of PSAPs and other public safety organizations to save lives in emergencies—which should of course be the overriding factor in any Commission decision on ALI compliance standards.

Nonetheless, with shrill rhetoric but little factual support, TruePosition claims that the Wireless Telecommunications Bureau’s ongoing proceeding on handset-based ALI systems for wireless E911 services would “change the rules of the game to extend deadlines or modify rules so that potential competitors who have failed over the last five years to produce workable ALI solutions can continue to experiment at the expense of public safety.” TruePosition Ex Parte at 1. That is simply incorrect. The fact is that TruePosition is resorting to *ad hominem* attacks in order to conceal its own technological and commercial failures. As SnapTrack demonstrated convincingly in its May 5, 1999 review of the record compiled in this proceeding—a body of evidence ignored by TruePosition—network-based ALI approaches “are incomplete and extremely costly, and the record corroborates the concerns raised in [recent press reports] as to whether network-based solutions can meet the Phase II deadlines at all.”²

While TruePosition now contends that the Commission’s existing ALI rules are technologically neutral, it never objected to (let alone sought reconsideration of) the Commission’s December 1997 finding that the wireless E911 ALI standards would need to be revised, for instance through a “phased-in” implementation schedule, to avoid “hampering” GPS-based technologies that were not considered by the initial cellular/public safety “consensus agreement” in 1994. *Reconsideration Order* ¶ 124.³ TruePosition’s current claims that it is already prepared to meet the Commission’s existing E911 standards are unsupported. Within just the last two weeks, for instance, TruePosition’s flagship test project, with Houston Cellular Co. and the Greater Harris County E911 Emergency Network, collapsed after Houston Cellular announced that it “will not go forward with an emergency call-locator system *because it is unproven and would put customers at risk.*”⁴ (The Houston parties are now in litigation over the matter.) In an explanatory open letter dated May 19, 1999, Houston Cellular reiterated its concerns about these tests and emphasized that network technology is inadequate because “[t]he test currently only locates customers on our analog network while the majority of Houston Cellular’s customers are using digital technology; again leaving us unable to locate the vast majority of emergency calls.”⁵ This prominent failure certainly implies that, despite its claims to the contrary,

² Memorandum from SnapTrack, Inc. to Thomas J. Sugrue, Chief, WTB (May 5, 1999).

³ *Revision to the Commission’s Rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems*, Memorandum Opinion and Order on Reconsideration, CC Docket No. 94-102, 12 FCC Rcd. 2265 (1997)(“Reconsideration Order”).

⁴ “Cellular Firm Won’t Pursue Locator System for 911 Calls,” Houston Chronicle, May 18, 1999 (attached as Exhibit A)(emphasis supplied).

⁵ Open Letter from Houston Cellular at 1 (May 19, 1999) (attached as Exhibit B).

TruePosition is unable to meet the demands of the public safety community and wireless carriers searching for viable, cost-effective ALI solutions.

While we deplore the diversion involved, SnapTrack is compelled to correct the record regarding some of the more egregious misrepresentations and inaccuracies of the TruePosition filing. The facts demonstrate that TruePosition is not “ready to compete with other E911 technologies on an equal playing field,” but rather is advancing a self-serving agenda in an effort to solidify the inadvertent Commission-sanctioned monopoly granted network-based technologies for implementation of Phase II E911.

For their part, SnapTrack and other handset-based proponents are merely seeking a fair, marketplace determination on the real-world viability of their ALI technologies. If the equipment and services made available by SnapTrack or any other handset proponent fail to perform (as TruePosition predicts), either economically or technically, carriers will not deploy these systems, end users will therefore not be harmed, and public safety will not be compromised. Receipt of any waiver by a carrier will not serve as a *prima facie* substitute for such carrier’s Phase II obligations. If a location technology does not allow for the waiver conditions to be met, a carrier’s obligations are not eliminated simply by application for and receipt of a waiver. Consequently, much of what follows is, of necessity, tangential to the real policy issues raised in this proceeding, because TruePosition’s *ex parte* comments ignore the commercial reality that the marketplace will weed out those ALI technologies that cannot provide the public safety, cost and performance features required by carriers and PSAPs.

1. The “Flash-Cut” Implementation Standard In the Current E911 Rules Precludes Any Handset-Based ALI Technology

SnapTrack does not, as TruePosition asserts, seek an adjustment of the Commission’s rules because “no workable handset-based solution exists.” TruePosition Ex Parte at 1. As discussed in Section 2 below, workable handset solutions exist now; it is viable network solutions that do not exist, whether for digital (TDMA, etc.) technologies or, as in Houston, analog cellular (AMPS). Rather, the need for adjustment of the E911 ALI rules has long been recognized by the Commission and the Bureau. This need arises from the fact that the existing 125-meter RMS/October 2001 implementation standard assumes a “flash cut” turn-up of wireless ALI capabilities that, by definition, is incompatible with a handset-based approach to wireless E911.

There is no legitimate dispute on this point.⁶ Specifically addressing GPS-based handset alternatives, the *Reconsideration Order* stated that the Commission has “not endorsed or mandated any particular ALI technology or approach,” and did not “intend that the implementation deadline, the accuracy standard or other rules” would “unreasonably hamper the development of the best and most efficient ALI systems.” *Reconsideration Order* ¶ 124. In October 1998, former Bureau Chief Dan Phythyon explained that the *Reconsideration Order* was intended:

⁶ *Accord, e.g.,* AirTouch Reply Comments at 3 & n.5; Aerial Petition at 2-3; Brazos Cellular Petition at 2; Sprint Petition at 3.

to specifically address concerns that aspects of the Commission's rules might appear to preclude a handset-based approach. For example, Section 20.18(e) of the Commission's Rules, 47 C.F.R. § 20.18(e), requires that carriers provide ALI for *all* calls, which might not be feasible under a handset-based approach for handsets currently in use.⁷

The Bureau emphasized that it would "continue to take reasonable steps to modify these rules [to support] the best and most efficient ALI technologies and systems, *including handset-based technologies and systems.*" *Id.* at 3 (emphasis supplied). Finally, the Public Notice further explains that:

A primary concern with applying these rules to handset-based technologies is that carriers may only be able to provide Phase II ALI for new handsets or handsets that have been upgraded to support the chosen technology. . . . It may not be possible or economically feasible for carriers to provide ALI for the embedded base of handsets that have not been upgraded on the date set by the current Commission rules. . . . [Therefore,] the Commission expressed its willingness to consider proposals to phase in implementation, especially to the extent a proposal helps achieve further improvements in ALI capabilities. This could mean, for example, a higher level of accuracy [or] applying the Phase II requirements only to new wireless phones.

Public Notice at 2-3.

Despite TruePosition's argument that the Commission has "emphatically reaffirmed that its current E911 rules *are* technology neutral because they reflect 'general performance criteria, rather than extensive technical standards,'" TruePosition Ex Parte at 2, the Bureau and the Commission have instead repeatedly gone out of their way to point out that because the current rules presume the ability to locate every wireless call to Phase II standards, this "flash-cut" schedule is inconsistent with the marketplace dynamics of handset penetration and turnover. And although TruePosition is correct that there is no legal monopoly for network-based ALI technologies, the fact is that the current rule was drafted with the "expect[ation] that ALI would be implemented by upgrading wireless carriers' networks," which theoretically "would allow the carriers to provide ALI for all handsets." Public Notice at 2.

As a result, there is only one type of ALI technology, namely that based in the network, that can as a practical matter even hypothetically comply with the existing 125 RMS standard by October 2001, because the rule requires 67% of all calls to be located by a date certain. As current Bureau Chief Thomas Sugrue testified to the House in February, the Commission intends to work to ensure technology neutral rules that "allow for all ALI technologies, whether they are

⁷ Letter from Daniel B. Phythyon, Chief, WTB, to Pamela J. Riley, AirTouch (Oct. 23, 1998)(attached as Exhibit C) (emphasis in original).

located in the carriers' networks or in handsets."⁸ More pointedly, as Mr. Sugrue replied to Rep. Gordon during questioning at the hearing, "[i]f our rules were applied literally, no one, no carrier, no system using a handset-based approach could satisfy our requirements. Not because we wanted to rule it out, because we wrote the rules in a way without that in mind."⁹ It is this problem, inadvertent but nonetheless a complete barrier that can be overcome by "no one" adopting a handset-based approach to ALI, that the Bureau is addressing in the current Public Notice proceeding.

2. GPS-Based Handset Solutions Do Not Suffer Any Significant "Shortcomings" And are Vastly Superior To Comparatively Costly, Inaccurate and Limited Network Alternatives

TruePosition's contention that handset-based ALI providers "offer nothing but speculation that handset-based ALI technologies will be available in the near future," TruePosition Ex Parte at 1, is likewise incorrect. SnapTrack has and continues to offer a substantial and growing body of audited test results that demonstrate that handset-based technologies work in all potential environments (urban, rural, indoors, etc.) and with all wireless modulation schemes, and provide a significant degree of accuracy to wireless E911 location. In contrast, it is the viability of network-based technologies that have been called in to question by the record in this proceeding. As just one example, AT&T Wireless has advised the Commission that there is no currently available network-based ALI technology for use with its TDMA systems, and none is expected prior to the existing 2001 compliance deadline.¹⁰

TruePosition's most glaring falsehood is thus the assumption, which pervades its *ex parte* comments, that there are "working network solutions" available today, while handset-based solutions are based upon what it terms "exaggerated deployment schedules." TruePosition Ex Parte at 2, 12. Yet network technologies have not even been developed (let alone tested) for CDMA or GSM systems, AT&T Comments at 2-3, cannot work (while handset solutions can) in harsh "multipath" environments like urban downtown locations, US West Reply Comments at 4, and cannot operate (while handset solutions excel) in rural environments where there are insufficient cell sites to permit triangulation, US West Reply Comments at 5; Inland Cellular

⁸ Statement of Thomas J. Sugrue to the Subcommittee on Telecommunications, Trade and Consumer Protection, at 3 (Feb. 3, 1999)(emphasis supplied).

⁹ The relevant excerpts from the transcript of the February 3, 1999 House Telecommunications Subcommittee hearings, including the complete exchange between Rep. Gordon and Bureau Chief Sugrue, are attached as Exhibit D.

¹⁰ There simply is no network-based ALI solution for TDMA that is procurement-ready today. AT&T Wireless Comments at 3-5. Sprint Spectrum Waiver at 3; Wireless Services Comments at 2-3. Despite the claims of certain network-based technology vendors that their solutions will work for wireless networks using TDMA, these solutions are still in the testing phase. AT&T Reply Comments at 4. Compare TruePosition Response at 5 with Attachment 3, Press Release, "TruePosition Releases TDMA Modules for Wireless Location System," released Feb. 1, 1999 (announcing that TruePosition has "*commenced production*" of AMPS/TDMA modules for the series 2 TruePosition Wireless Location System" and has "*successfully completed laboratory testing and begun field trials*." (emphasis added)). AT&T notes that it will have to conduct its own integration tests to ensure that any potential solution will not negatively impact digital performance. It notes that it hopes the TruePosition solution is available within a year, but that "this outcome is far from certain." AT&T Wireless Reply Comments at 4.

Telephone Reply Comments at 3. And even if its technology were workable, TruePosition ignores the reality that network-based solutions are so costly that for many wireless carriers “it will be simply impossible to generate sufficient revenue, either from customers or from direct subsidies from the state’s 911 fund, to cover the cost of the equipment over a remotely reasonable timeframe.” North Alabama Cellular Petition at 1.

This *ex parte* is not the only example of exaggeration and hiding of relevant facts by TruePosition. It claimed in its February 1999 comments, incorrectly according to the very carriers who are looking for ALI solutions, that its “ALI technology is capable of determining the location for all existing types of analog and digital CMRS networks (GSM, TDMA, CDMA, ESMR) well within Phase II requirements.” TruePosition Comments at 4. It then stated that “[i]n fact, TruePosition has commercially installed its system in Houston.” *Id.* at 5 (citing TruePosition Press Release).¹¹ That was also a blatant exaggeration. As Houston Cellular President Donald Kovalevich wrote to TruePosition’s President Kent Sander on March 1, 1999:

It has been brought to my attention that representatives of TruePosition have made claims that the E-911 trial was in a commercial state. We both know this is inaccurate information based on the fact that we are in a testing phase, and the contract agreement with Greater Harris County is for a trial only. . . . *The trial is for testing and is not a commercial application at this time.* Any public announcement or statement otherwise is inaccurate and misleading.¹²

The suggestion that the “phased-in implementation that waiver proponents seek,” TruePosition Ex Parte at 4, was “designed to placate” shortcomings of SnapTrack’s technology is absurd. A phased-in approach was first proposed by the Commission in its December 1997 *Re-consideration Order*. By requiring the introduction of ALI-capable handsets prior to October 1, 2001, the proposed waivers would *accelerate* the delivery of E911 protection to consumers rather than “indefinitely prolong” such delivery as TruePosition suggests. TruePosition Ex Parte at 2. Moreover, SnapTrack has submitted extensive test data demonstrating its ability to meet and substantially exceed a 90-meter ALI accuracy standard.¹³ Recognizing this greater accuracy, the Chief of the Wireless Bureau testified to the House that “one of the things we might do is say you get the waiver if you commit to high accuracy levels.”¹⁴

Only hyperbole supports TruePosition’s insistence that “the Bureau cannot blindly accept the unsubstantiated predictions and aspirations of those touting unproven technologies.” TruePosition Ex Parte at 6. SnapTrack has substantiated and extensively tested its handset ALI

¹¹ TruePosition similarly claimed that “network-based location system is commercially deployed and fully operational . . . in Greater Harris County.” TruePosition Comments at 17.

¹² Letter from Donald Kovalevich, President, Houston Cellular Co., to Kent Sander, President, TruePosition, Inc. at 1 (March 1, 1999)(attached as Exhibit E)(emphasis supplied). See “Phase II Not Ready—Carriers May Pull Out of E911 Test,” *Wireless Week*, April 26, 1999 (“One source close to the trial indicated technical problems are the reason [why] Houston Cellular sent a letter to TruePosition, Inc. warning the vendor not to call the Phase II system it installed . . . a commercial product.”).

¹³ SnapTrack Comments at Exh. A.

¹⁴ See Exhibit D.

technology and has presented the results of these tests to the Commission in this docket.¹⁵ SnapTrack did not ignore the claimed technical criticisms in TruePosition's February 16 comments. *Id.* at 6. For instance, TruePosition challenges whether standards are, in fact, being developed to support ALI capabilities for roamers. SnapTrack's comments addressed this point (SnapTrack Comments at 11 and note 15), and more recently, in a presentation given by the Chair of TR45.5 (CDMA Air Interface) on May 5, 1999, it is clear that standards are in fact rapidly being developed.¹⁶ Finally, TruePosition's comments urge that "to assume 100 million users will trade in their phones . . . is probably wishful thinking."¹⁷ SnapTrack's handset penetration assumptions are supported by ample record evidence on the accelerating rate of handset replacement.¹⁸ As confirmed in a recent Associated Press story, "[p]eople buy a new cell phone every two to three years, a FCC attorney said."

TruePosition contends erroneously that SnapTrack has "no working prototype." TruePosition Ex Parte at 6. Yet the results from the Tampa trial, which SnapTrack has included as Exhibit E to this submission, dispel this obsolete claim. As Sprint and GTE reported after the Tampa trials to the CDMA Development Group, their final conclusion was "NO BAD NEWS."¹⁹ There, single unit GPS-integrated handsets from multiple manufacturers were not only tested but publicly demonstrated to industry and public safety representatives. Thus, although that was not the case in last year's August 1998 Denver trials, the March 1999 trial used working, *integrated* handsets.²⁰ (The picture in TruePosition's Exhibit 1 is not of any of the handsets used in Tampa, but rather an early test set used more than a year ago that was part of a preliminary SnapTrack report filed with Committee T1P1 in August 1998.) Finally, multiple miniature GPS antennae capable of integration into wireless handsets were tested in Tampa; however, some antennae were not fully integrated so they could be easily swapped in order to more efficiently test more than one antenna with a single handset. In order to accurately communicate to the media and the public what the testing involved, that information was posted to the website. TruePosition Ex Parte at Exh. 2.

As the results of the Tampa trial indicate, integration of internal antennae does not "lead to significant performance degradation." TruePosition Ex Parte at 7 & note 12. First, the 20 dB loss shown in the diagram referenced at note 12 of TruePosition's *ex parte* was generated in laboratory testing not representative of real world conditions, and thus is not directly relevant to the performance of any operational GPS system.²¹ Second, the first phase of Tampa testing in March 1999 demonstrated the real-world performance capabilities of antenna integration. Finally, a prototype of the integrated GPS phone (with an internal patch antenna) used in testing

¹⁵ SnapTrack Comments at Exh. A.

¹⁶ Specifically, text for a "point-to-point" baseline was developed for the May TR45.5 opening plenary on May 17, 1999. Similarly, text was developed for V & V (Validation and Verification) baseline during May meeting and a ballot text was presented at the conclusion of the May meeting. Clearly, standards are well-underway. *See* Exhibit F.

¹⁷ TruePosition Comments at 18.

¹⁸ SnapTrack May 5, 1999 Ex Parte at 5-6.

¹⁹ Exhibit E at 19.

²⁰ *See* Exhibit E.

²¹ SnapTrack Comments at Exh. A.

was shown to the Wireless Bureau and Chairman Kennard in April 1999. Thus, contrary to TruePosition's claims, "SnapTrack's recent Tampa trials" do "demonstrate significant advances in the company's technology," and the phones tested were "fully GPS-integrated." See TruePosition Ex Parte at 7.

TruePosition also misrepresents SnapTrack's ability to work with TDMA, GSM and AMPS systems. TruePosition Ex Parte at 7. SnapTrack has both tested and demonstrated to third parties its technology on AMPS, GSM, PDC (a flavor of TDMA), and CDMA. In fact, NTT DoCoMo, Japan's largest wireless carrier, has licensed SnapTrack's technology for commercial use in its PDC network.

Finally, TruePosition claims that "even with standardization, an IDC system could not locate a SnapTrack-equipped phone." TruePosition Ex Parte at 11. This is flatly incorrect. The whole purpose of standardizing messages for network-assisted GPS is to assure that handsets equipped with SnapTrack technology *can* be located by a CMRS system relying on another handset-based technology. Network equipment and handsets will be transparently interoperable among vendors, since that is the precise function of setting industry wide standards. TruePosition Ex Parte at 11.

3. TruePosition's Ex Parte Comments Mischaracterize the Issues, the Commission's Rules and the Public Interest in Improved ALI Accuracy

TruePosition repeatedly misstates the Commission's rules. For instance TruePosition comments that "[t]he Commission has twice . . . concluded that the public interest, and specifically public safety requires that by 2001 all CMRS users be located when making emergency calls." TruePosition Ex Parte at 6. The Commission has not mandated "that *all* 911 callers be located." *Id.* at 3, 10. The mandate requires that CMRS carriers be able to provide location *if* requested to do so by the PSAP and *if* a cost-recovery mechanism is in place. Similarly, the Commission has not determined that "consumers do not even have to subscribe to CMRS to have full ALI protection." TruePosition Ex Parte at 10. The Commission only has mandated that non-initialized phones be able to complete an E911 call.

With respect to roamers, SnapTrack does not presume that "network-based solutions will be ubiquitously available" to solve roamer problems. TruePosition Ex Parte at 12. Rather, SnapTrack simply asserts that *if* a network solution is deployed, such a solution will locate handsets roaming in that area where it is deployed to the same extent that it locates any other call. As discussed above, standardization (both within GPS handset-based technologies and across any specific wireless air interface, such as TDMA or CDMA) will minimize the barriers to location of roamers using a handset-based ALI approach. As to TruePosition's implication that SnapTrack is somehow hiding costs for its systems, TruePosition Ex Parte at 7, SnapTrack simply responds that if it is not cost-competitive, it will lose in the marketplace. Carriers and PSAPs, not this Commission, are best situated to make the economic decisions associated with E911 ALI deployment.

Most importantly, accepting TruePosition's rhetorical posturing and mischaracterizations would have the unfortunate result of damaging the public interest by denying wireless users the benefit of the increased competition engendered by handset-based ALI technologies. The Commission should not accept the unsubstantiated claims of one entity that is losing in the competitive marketplace as definitive evidence of the purported non-viability of handset-based ALI technology. Instead, as SnapTrack has demonstrated, and the record supports, handset solutions offer a real, and potentially superior, alternative to network-based solutions. Given recent developments in Houston, it certainly appears that the TruePosition *ex parte* was aimed at deflecting the growing body of third-party evidence suggesting that network-based solutions are in jeopardy of being able to meet the Commission's deadline. If instead of attacking handset-based technologies with which it is clearly unfamiliar, TruePosition focused on its own technical development and long-promised "commercial" deployment, it might be more ready to meet competing ALI technologies and serve the important public safety and public interest objectives the Commission is striving to achieve in this proceeding.

Respectfully submitted,

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May 18, 1999, 09:58 p.m.

Cellular firm won't pursue locator system for 911 calls

By CARLOS BYARS

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Houston Cellular's president said Tuesday that his company will not go forward with an emergency-call locator system because it is unproven and could put customers at risk.

In a statement, company President Don Kovalevich accused the Greater Harris County 911 Emergency Network of being "misleading" in its criticism of the company.

But emergency network officials called the complaints from Houston Cellular a "smokescreen."

The 911 network filed suit against Houston Cellular and its business partners Monday, alleging that they breached an agreement to proceed with testing of a system that would allow emergency workers to electronically pinpoint the location of a cellular customer who calls 911. A hearing in this case is scheduled for 9 a.m. Friday in ancillary court.

Panicked citizens calling from their cars often cannot tell dispatchers exactly where they are.

Houston Cellular and the emergency network already tested the locator system during a 10-month trial period using mock calls. The company and emergency operators were set to put the system to use on actual Houston Cellular customers in the second phase of testing.

But Houston Cellular officials say they declined to go forward with plans because it is not yet proven technology.

"The test was not intended as a permanent solution, and it could cause substantial confusion and risk for our customers," Kovalevich said in the statement.

The president noted that the test area would have covered just 2 percent of Houston Cellular's coverage area, and it would have worked only on analog calls. Most of the customers' calls are digital, Kovalevich said.

But John Melcher, project director for 911, said digital calls would have been included in tests beginning in June.

Melcher also disputed claims that the testing would confuse callers, saying that the network has one of the best customer-awareness programs in the country.

Kovalevich said his company has been "unfairly criticized" and he called it ironic that Houston Cellular has been singled out for criticism, when it is the only local cellular service provider that has done any emergency system testing at all.

Officials of the 911 Network said that the advent of BellSouth as managing partner of Houston Cellular last December led to the eventual termination of the testing program.

Named in the lawsuit are BellSouth and American Cellular, another BellSouth subsidiary.

The 911 system currently is unable to locate calls from cellular phones as is done with calls using the normal telephone system. Unless the caller knows and can give the location, emergency response can be seriously delayed.

- Kids emerge from zoo as U.S. citizens
- Document: Ex-worker killed O'Hair, her kin
- Ex-lover to testify at Cisneros' trial
- Area briefs
- State briefs

The Federal Communications Commission has given cellular phone companies until October 2001, to develop technology that will locate emergency calls. A Houston Cellular spokeswoman said the company intends to meet that deadline.

Tom Bass, chairman of the 911 board of managers, said the issue boils down to saving lives.

Initial tests of the proposed system using a dummy number were highly successful, 911 managers said, thus paving the way for testing on actual calls.

These tests were scheduled to last six months, beginning in mid-April. Their aim was to see how accurately 911 calls could be located in a large area of southwest Houston.

Electronic equipment already has been installed on 70 cellular phone towers. These towers provide cell-phone service in a wedge-shaped area from downtown west along Interstate 10 to Beltway 8 and south to U.S. 59. This area has the highest density of cell-phone subscribers in the city, 911 officials said.

B

Donald Kovalevich
President

houston cellular

May 19, 1999

Dear Citizens of Greater Houston and Galveston:

As you may be aware, Greater Harris County 9-1-1 Emergency Network (GHC) is pursuing legal action against Houston Cellular. We believe GHC's information is misleading and that Houston Cellular is being unfairly criticized. I want you to have the facts:

- In 1996, the FCC mandated that the wireless industry provide 911 networks with callback numbers and cell site location 100% of the time for wireless 911 emergency calls by 1998 (Phase I). Phase II mandates location identification of calls within 410 feet, 67% of the time, by October 2001. GHC chose not to implement Phase I technology immediately.
- Houston Cellular is the only wireless carrier in Houston that has worked with GHC to test new wireless E911 technology.
- The agreement between GHC and Houston Cellular was established to test location technology and did not require that this technology be implemented permanently. We have now completed ten months of cooperative testing with GHC. It is time that we review other technologies. A permanent solution cannot be determined based solely on testing one technology.

Houston Cellular is extremely concerned with the consequences of GHC's insistence to test the system with customers' live emergency calls. The test was not intended as a permanent solution, and it could cause substantial confusion and risk for customers:

The test area covers less than 2% of Houston Cellular's service area, leaving us unable to locate the vast majority of emergency calls.

The test currently only locates customers on our analog network while the majority of Houston Cellular's customers are using digital technology, again leaving us unable to locate the vast majority of emergency calls.

To date, Houston Cellular is the only one of seven local wireless providers in Houston to test this technology. We are unable to complete or locate the emergency calls of other wireless carriers.

- Houston Cellular offered to test this technology with GHC for an additional six months to collect more data on this still-developing technology. With this lawsuit, GHC has rejected our proposal for further study.

We are disappointed that GHC has chosen to take legal action against us – the only wireless carrier that has worked to help them test location technology.

Houston Cellular has been and continues to be a leader in developing location technology solutions to meet the FCC requirements, and we remain committed to appropriate testing with GHC as it allows

Houston Cellular offered to test this technology with GHC for an additional six months to collect more data on this still-developing technology. With this lawsuit, GHC has rejected our proposal for further study.

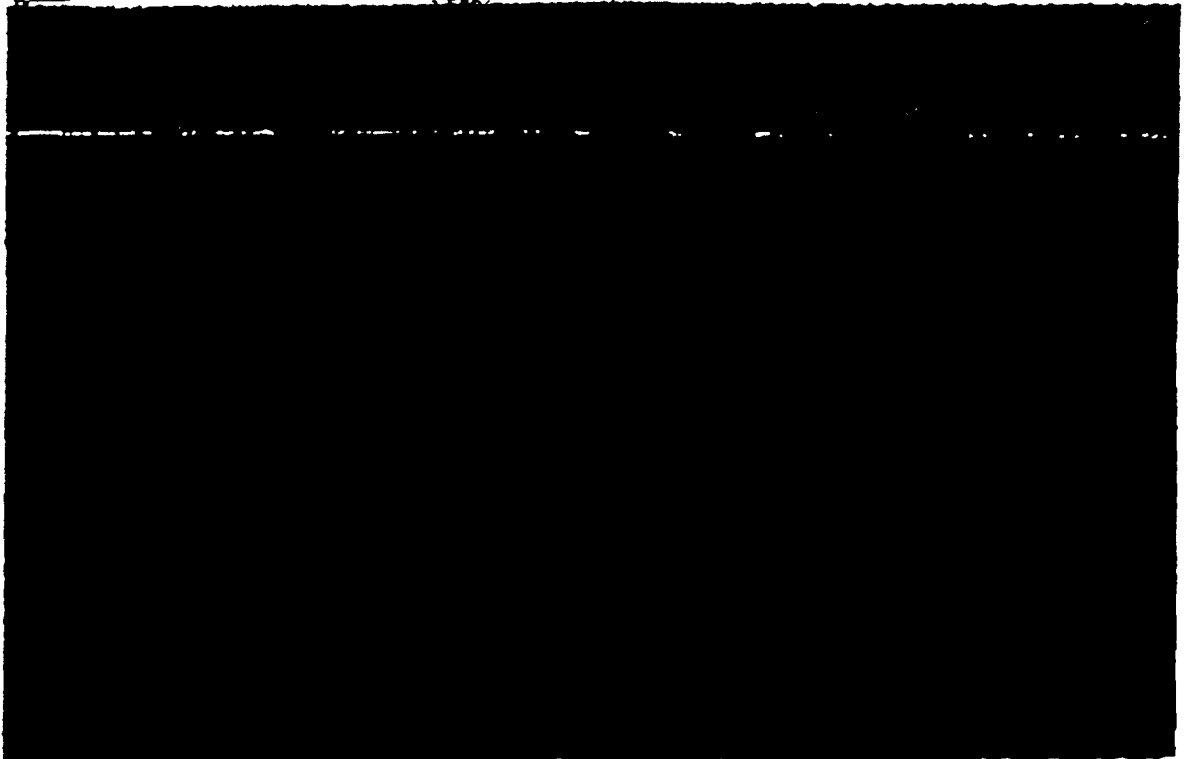
We are disappointed that GHC has chosen to take legal action against us – the only wireless carrier that has worked to help them test location technology.

Houston Cellular has been and continues to be a leader in developing location technology solutions to meet the FCC requirements, and we remain committed to appropriate testing with GHC and others.

Please feel free to contact our Customer Care Department at 713-444-4444, if you have any questions.



Don Kovaievich
President



C

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

IN REPLY REFER TO:

October 23, 1998

Ms. Pamela J. Riley
Vice President - Federal Regulatory
AirTouch Communications
1818 N Street, N.W., Suite 800
Washington, D.C. 20016

Dear Ms. Riley:

I am writing in response to your letter of October 2, 1998, in which you express concern that some may interpret the Commission's decisions in the wireless E911 rulemaking proceeding, CC Docket No. 94-102, as requiring a network-based location determination technology solution in order to comply with the Phase II automatic location information (ALI) rules. You request clarification to help alleviate "substantial industry confusion as to wireless carriers' Phase II obligations."

In the wireless E911 proceeding, the Commission adopted general performance criteria rather than extensive technical standards, thus allowing various technologies to be used in the provision of Phase II ALI. See *E911 First Report and Order*, 11 FCC Rcd 18676, 18714 (para. 76) (1996). As you point out in your letter, the Commission reaffirmed this approach in the *E911 Reconsideration Order*, 12 FCC Rcd 22665 (1997). The Commission also specifically addressed concerns that aspects of the Commission's rules might appear to preclude a handset-based approach. For example, Section 20.18(e) of the Commission's Rules, 47 C.F.R. § 20.18(e), requires that carriers provide ALI for *all* calls, which might not be feasible under a handset-based approach for handsets currently in use.

To reaffirm its general policy and approach, and to clarify the application of that policy to handset-based approaches to ALI, the Commission stated as follows:

123. One further point deserves mention. In setting deadlines and benchmarks for ALI, our policy has been to be technologically and competitively neutral. As we indicated in the *E911 First Report and Order*, our intention was to adopt general performance criteria, rather than extensive technical standards, to guide the development of wireless 911 services. Our goal is to ensure the rapid, efficient, and effective deployment of ALI as part

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Vice President - Federal Regulatory
AirTouch Communications

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of E911, in order to promote the public safety and welfare. *Thus, we have not endorsed or mandated any particular ALI technology or approach*, although we did recognize in the *E911 First Report and Order* that parties at that time expected that ALI technology would be based in the network, not in the handset.

124. Since the *E911 First Report and Order* was adopted, however, we have received several inquiries with respect to whether other technologies, such as handset-based technologies using the GPS satellite system, could comply with our rules. To clarify our policies, we wish to reaffirm that our rules and their application are intended to be technologically and competitively neutral. We do not intend that the implementation deadline, the accuracy standard, or other rules should hamper the development and deployment of the best and most efficient ALI technologies and systems. Manufacturers and other interested parties who believe that our rules could be applied in a way that might unreasonably hamper the deployment of effective ALI solutions may raise this issue in the ongoing rulemaking or by requests for waivers. We do not expect to delay the 2001 deadline, but would consider proposals to phase in implementation, especially to the extent a proposal also helps achieve the further improvements in ALI capabilities we discussed in the *E911 Further NPRM*.

E911 Reconsideration Order, 12 FCC Rcd at 22724-25 (paras. 123-124) (footnotes omitted) (*emphasis added*).

In addition to thus inviting both general proposals for revisions or waivers of the wireless 911 rules and specific proposals for phasing in ALI implementation, the Commission expressly indicated that it would, upon receipt of a formal request, consider reopening the record with regard to the application of Phase II requirements in order to apply them only to new wireless phones. *See E911 Reconsideration Order*, 12 FCC Rcd at 22725 (note 319).

To date the Commission has not received any requests that it modify or waive the Phase II ALI rules or apply them only to new handsets, although we are considering a general request in a petition for further reconsideration, filed by the Cellular Telecommunications Industry Association, that we clarify the Phase II ALI rules as they apply to handset-based solutions.

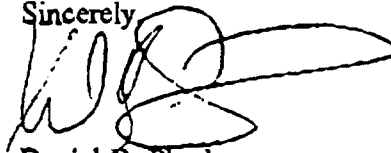
While I cannot of course prejudge the disposition of this petition or of any other filings we might receive on this issue, I anticipate that the Commission and the

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Bureau will continue to apply and, if necessary, to take reasonable steps to modify those rules in a technologically and competitively neutral manner that permits the deployment of the best and most efficient ALI technologies and systems, including handset-based technologies and systems. In this regard, any carrier that is planning to achieve compliance with the Commission's Phase II ALI rules by deployment solely of a handset-based solution, and that has any concerns whether such an approach is precluded by the Commission's rules, should give consideration to filing a request for waiver or for other formal Commission action to modify or waive the ALI rules to address compliance issues affecting handset-based technologies.

Sincerely

A handwritten signature in black ink, appearing to read 'D. B. Phythyon', with a long horizontal stroke extending to the right.

Daniel B. Phythyon
Chief, Wireless Telecommunications Bureau

D

THE WIRELESS PRIVACY ENHANCEMENT ACT OF 1999 AND THE WIRELESS
COMMUNICATIONS AND PUBLIC SAFETY ENHANCEMENT ACT OF 1999

HEARING

before the

SUBCOMMITTEE ON TELECOMMUNICATIONS,
TRADE, AND CONSUMER PROTECTION

of the

COMMITTEE ON COMMERCE
HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTH CONGRESS

FIRST SESSION

on

H.R. 438 and H.R. 514

FEBRUARY 3, 1999

Serial No. 106-2

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[EXCERPTS]

Mr. Gordon. Okay. And let me go to the FCC here. I assume that, as these waivers come to you, are you going to provide some--what is going to be your criteria? Are you going to do some kind of cost-benefit analysis? What do you see happening?

Mr. Sugrue. Absolutely, in the public interest. As I understand this, rather than characterize this as necessarily postponing the deadline, it is to shape the implementation requirements so that a different technology isn't sort of ruled out just because the rules were written with one particular type of technological solution in mind.

When the Commission wrote these rules, it assumed that the only approach to provide this service was a network-based solution. You build it into the cell sites around the network. Since then, some folks have proposed what they call a handset-based solution that would work in conjunction with the global positioning system, the satellite system that provides very precise location information. If our rules were applied literally, no one, no carrier, no system using a handset-based approach could satisfy our requirements. Not because we wanted to rule it out, because we wrote the rules in a way without that in mind.

I think it is sort of that the various reasons why, procedurally, this is being styled as a waiver. I would almost prefer to think of it as a rule modification or update so we have an approach that doesn't inadvertently rule out one technology that may be very promising. So we are going to look at things like if you do the handset-based approach, which would involve a ramp-up, you might be required to start earlier so that the deadline may, in some sense, be stricter.

Mr. Gordon. Will you looking at, I mean, maybe the difference in accuracy? I mean, whether it is a, you know, minimal amount or--and also cost?

Mr. Sugrue. One of the tradeoffs will be whether the current rule provides for location information with 125 meters on a measured average basis. Now that's about 400 feet. One thing we are going to ask is if you are going to ask for a waiver, will you be able to do better than that if you get the waiver? So can you get inside 125 meters as a standard? And one of the things we might do is say you get the waiver if you commit to high accuracy levels.